TRANSCRIPT OF PROCEEDINGS

CIRCUIT COURT

TWENTIETH JUDICIAL CIRCUIT

ST. CLAIR COUNTY, ILLINOIS

- -x

CHARLES KUEPER,

Plaintiff,

v.

R. J. REYNOLDS COMPANY,
THE TOBACCO INSTITUTE, INC.,
and REESE DRUG STORES, INC.,

Defendants.

- -x

Case Number

91-L-734

page 30 no access to vending mach

DEPOSITION OF KATHLEEN M. LINEHAN

Washington, D. C.

Thursday, September 10, 1992

ACE - FEDERAL REPORTERS, INC.

Stenotype Reporters

1120 G Street, NW
Washington, D.C. 20005
(202) 347-3700

NATIONWIDE COVERAGE

800-336-6646

http://legacy.library.ucsf.edu/tid/exh97e00/pdf

CIRCUIT COURT

TWENTIETH JUDICIAL CIRCUIT

ST. CLAIR COUNTY, ILLINOIS

CHARLES KUEPER, Plaintiff, v. R. J. REYNOLDS COMPANY, THE TOBACCO INSTITUTE, INC., and REESE DRUG STORES, INC., Defendants.	Case Number 91-L-734

DEPOSITION OF KATHLEEN M. LINEHAN

Washington, D. C.

Thursday, September 10, 1992

Deposition of KATHLEEN M. LINEHAN called for examination pursuant to notice of deposition, at the law offices of Covington and Burling, 1201 Pennsylvania Avenue, N.W., Eleventh Floor, at 3:45 p.m. before LISA N. BENCHOFF, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

BRUCE N. COOK, ESQ.
Cook, Shelvin & Keefe Ltd.
12 West Lincoln Street
Belleville, Illinois 62220
On behalf of Plaintiff.

-- continued --

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

APPEARANCES:

RICHARD E. BOYLE, ESQ.
Gundlach, Lee, Eggmann
Boyle & Roessler
P. O. Box 899
5000 West Main Street
Belleville, Illinois 62223
On behalf of Defendant R.J.
Reynolds Company.

RICHARD G. STUHAN, ESQ.
Jones, Day, Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
On behalf of Defendant
R. J. Reynolds Tobacco
Company.

LARRY E. HEPLER, ESQ.
Burroughs, Simpson, Hepler,
Broom & MacDonald
P. O. Box 510
Two Mark Twain Plaza
Suite 300
103 North Main Street
Edwardsville, Illinois 62025-0510
On behalf of Defendant The Tobacco
Institute, Inc.

MICHAEL J. NESTER, ESQ.
Donovan, Rose, Nester
& Szewczyk, P.C.
8 East Washington Street
Belleville, Illinois 62220
On behalf of Defendant
Reese Drug Stores, Inc.

JAMES GOOLD, ESQ.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D. C.
On behalf of Defendant
The Tobacco Institute.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

2547.1
LE 1

CONTENTS

WITNESS	EXAMINATION
Kathleen M. Linehan	
by Mr. Cook	4

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

P R O C E E D I N G S

Whereupon,

KATHLEEN M. LINEHAN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. COOK:

Q Would state your full name and address, ma'am.

A Kathleen Linehan, [DELETED]

Q Ms. Linehan, I understand that you're an attorney?

A Yes.

Q What law school did you graduate from?

A George Mason, it's a Virginia school.

Q I know where it is. I don't know the name of the mascot.

(Recess.)

BY MR. COOK:

Q What year did you graduate, Ms. Linehan?

A 1980.

Q What school did you get your bachelor's degree

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

from?

A University of Maryland.

Q Terrapins.

A Yeah.

Q What's George Mason?

A I don't know.

(Discussion off the record.)

BY MR. COOK:

Q What was your major field of study at the University of Maryland?

A Political science.

Q Where were you raised?

A Philadelphia.

Q Following your graduation from George Mason, what did you do first professionally?

A Actually, I went to school at night. I graduated from Maryland in '72 and I started working -- I worked on Capitol Hill for a couple years.

Q What did you do on Capitol Hill?

A I was legislative a assistant to Congressman Davis of South Carolina.

Q Was Congressman Davis a Democrat or Republican?

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

A Yes, Democrat.

Q In South Carolina they don't raise too much tobacco, do they? Did he have a tobacco constituency?

A His district was the 1st district. It was Charleston and Hilton Head and that area. I don't -- I doubt if that's an area of tobacco.

Q What you did you do for him?

A I was his LA.

Q What's an LA?

A Legislative assistant.

(Discussion off the record.)

BY MR. COOK:

Q Then after you did your two-year hitch as an LA with Congressman Davis, what you do next?

A Then I went downtown, actually across the street to the Federal Energy Administration. That was the predecessor agency to DOE.

Q That would have been when President Carter was president?

A Actually, I was there the last year Ford was president and then stayed on and became a Schedule C under the Carter administration.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library www.industrydocuments.ucsf.edu/docs/fmhl0001

Q What's a Schedule C?

A It's a political appointment. And I worked as an executive assistant to the administrator of FEA, a guy named Jack O'Leary for a year, so that's about 1977, then --

Q Did you say FDA?

A FEA, Federal Energy. And then the next year DOE was formed and Schlesinger became the secretary and Jack, my boss, became the deputy secretary, so I stayed with Jack a couple years. I was going to night school then, I was going to grad school and then law school at night.

Q Why don't you just continue with your resume.

A Okay. I left DOE in 1979, went to Gulf Oil and became a lobbyist for, I guess five years; meanwhile, graduated from law school and took the bar in '80. In '85 I joined Philip Morris as director of -- I don't remember the title -- legislation or something, and in '90 I became a vice president. And this January I took over the Washington office.

Q What does your Washington office of Philip Morris do?

A Philip Morris, you know, has Kraft, General

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Digitized by the Internet Archive http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Foods, Miller Beer and Philip Morris USA which is the tobacco --

Q I like Miller beer. I do.

A Good.

MR. HEPLER: He likes Sharps better than O'Doule's.

MR. COOK: I've never tasted either one of them.

THE WITNESS: The office basically -- we represent the whole company and it's the lobbying government affairs office.

BY MR. COOK:

Q What was your first position with -- you said you were director of legislation?

A I don't remember the precise title. I basically headed up the tobacco lobbying group for Philip Morris.

Q What about -- would there be somebody separate for food lobbying?

A At the time in '85 -- this was 1985 -- General Foods, we had not bought yet and Kraft we had not bought yet, and actually we had 7-Up which we ended up spinning off. And Miller Beer didn't have a Washington presence so

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Stanford Libraries http://www.industrydocuments.ucsf.edu/docs/fmhl0001

it was totally different. So the only sort of presence in Washington was tobacco and then I think Miller had retained a lawyer in town, but we didn't have any food business.

Then we bought General Foods and they had a small office independent of our office. A few years later we bought Kraft and they had a small office, and it was stupid to have -- and Miller had a small office eventually after four or five years, so we ended up with four corporate offices around town. So the company, when we merged Kraft and General Foods, they thought it would be smart to merge those offices and then pull Miller in and put tobacco and everybody under one roof. So that's what happened.

Q Are you only involved in tobacco now?

A No, I'm the head of the office. I'm involved with food, on behalf of Kraft, General Foods, Miller Beer and tobacco.

Q You have the -- Philip Morris has the larger share of the cigarette sales in the United States. Is Philip Morris a larger or smaller corporation than RJR Nabisco?

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

A Larger.

Q You wouldn't be larger if they had Budweiser, would you. Do you know that August Busch hates Philip Morris?

A Yes.

Q Wouldn't allow people to drink 7-Up that work for him?

A I believe that. It's a real tough rivalry, even though I mean --

MR. HEPLER: He didn't hate them before they bought Miller.

THE WITNESS: No, Anheuser --

MR. COOK: No, it has only to do with beer.

MR. HEPLER: That's a violent relationship.

BY MR. COOK:

Q What type of relationship does -- I really asked that for a reason. Is the relationship between -- I assume that they lobby together frequently on many issues?

A No.

Q You don't get along that well?

A They get along fine, it's just totally different people, contacts.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
www.industrydocuments.ucsf.edu/docs/fmhl0001

Q Is there a beer institute like the Tobacco Insititute?

A Yes, it's sort of a new institute that was formed about a year ago.

(Discussion off the record.)

BY MR. COOK:

Q Are you on the executive committee of The Beer Institute?

A Beer Institute, no.

Q Is The Beer Institute modeled on The Tobacco Institute?

A I can tell you, I don't know anything about the beer institute. I don't even know who belongs to the beer institute other than A-B and Miller and there's probably one other. I don't know how many of the smaller companies belong to it. There is a --

Q Beer doesn't need much help, I wouldn't think. No, I know they do. They have a lot of the same people after them that tobacco does.

Is your rivalry with RJR as intense as Miller's is with Bud?

A In the market?

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Digitized by the Internet Archive http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q Yeah.

A Yeah.

Q The rivalry I understand between Miller and Budweiser is personal; you know, I mean not only a competitive thing, but August Busch, IV speaks unkindly about them and discourages people from buying other products that are manufactured by you?

A I didn't know that.

Q I don't know it either.

MR. HEPLER: He just made it up.

MR. COOK: No, matter of fact --

MR. HEPLER: I've heard --

THE WITNESS: Is he a buddy of yours?

MR. COOK: No, I prefer your beer and I mean I live in [DELETED] so I'm a social outcast.

(Discussion off the record.)

BY MR. COOK:

Q With respect to your lobbying activities, when tobacco issues come up, some issues the Tobacco Institute lobbies on and others I guess if they concern a particular brand or something like that, the Institute may not be involved in. Do you lobby all the tobacco issues?

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

A Do I?

Q Does Philip Morris?

A You mean, in other words would TI just do some things, and we wouldn't do those?

Q Yes. I'm trying --

A No, I think that PM would do -- would lobby whatever issues we thought were important. There may be issues that TI is lobbying which we don't place a priority on and we have -- we put more priority on other things.

Q How many lobbyists do you have who work tobacco?

A You mean registered lobbyists?

Q Uh-huh.

A Five.

Q What are their names?

A Bob Reese, R-e-e-s-e; David Nicoli, N-i-c-o-l-i; Bob Maples, Greg Scott, Jim Boland, B-o-l-a-n-d.

Q Aren't you an equal opportunity employer, ma'am?

A I like men.

Q We've agreed on everything except until we got to that. I've been trying to give them up.

In order to -- well, I won't ask you -- what is Mr. Reese's background that makes him an attractive

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

lobbyist?

A Bob's been in town a long time. He worked for a trade association for about 12 years.

Q Which one, do you know?

A Yeah, American Trucking Association.

MR. HEPLER: Keep on trucking, you know that one.

THE WITNESS: And before that I don't know, but I mean, he's been in town probably 20 years.

BY MR. COOK:

Q As far as you know he's never been a member or worked for the government before?

A I don't think.

Q He's unusual in that regard.

A I don't think Bob has.

Q How about Mr. Nicoli?

A David came out the Arnold & Porter, the law firm in Washington. He was an associate when I hired him, I don't know, like fourth year, third year, and I think before that he was with Skadden, Arps.

Q He doesn't have a government background either?

A No.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q Mr. Maples?

A Bob was with public relations firm and he's very young; he's in his early 30's. And I think he worked back in Tennessee for like a state development organization.

Q What about Greg?

A Greg worked for Philip Morris for 12 years, maybe, 11 years. Before that I think he was like a paralegal or something at a law firm.

Q How about Jim Boland?

A Jim worked on the Hill as minority counsel in the Senate banking committee and then left there. I think he had -- he worked for the Comptroller of the Currency, then he went to a law firm. He has banking, financial background. And then I hired him.

Q Doesn't sound like you're very well connected. I guess you could always call Craig Fuller, couldn't you?

A Sure.

Q Where is Mr. Fuller's office?

A He's in New York.

Q What does he do for RJR?

A PM?

Q I'm sorry.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

A Craig is senior vice president. I report to him for corporate affairs, so that would include everything from what I do, which is government affairs, to communications, contributions, that side of it.

Q Does he ever assist you in your lobbying?

A He hasn't yet.

Q I would think that he'd be pretty well connected with the administration, wouldn't you?

A I think he is.

Q Did you have anything to do with the Republican National Convention yourself?

A I went down.

Q Did you assist him?

A No.

Q Were you a delegate?

A No.

Q You didn't --

A I sat by the pool.

MR. HEPLER: Wrong party.

MR. COOK: I would hope she wasn't. People do change. Look at Ronald Reagan; he was a Democrat once.

BY MR. COOK:

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q Did Philip Morris host any meetings --

A Parties?

Q -- or parties or things like that?

A At the Republican?

Q Yeah.

A Yeah, we hosted some -- this international visitors' program, reception.

Q I know very little about Republican policies.

A I didn't go to this but some -- a couple receptions were held to honor the international diplomats for coming.

Q I enjoyed Pat Robertson's speech. That was just about it. When he got to the witchcraft part was the part that I really liked the best.

(Discussion off the record.)

BY MR. COOK:

Q May I ask why you were down there?

A Because I'm the head of government affairs in Washington, so I should be down there.

Q I'm really not trying to be rude; I'm trying to find out what you do.

A I know.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q And how you do it and how this is done, and I'm constantly amazed. Did you lobby while you were down there?

A Did I lobby?

Q Yes.

A As in the legal sense?

Q Informally.

A No.

Q What would you do down there that would assist your company's relationship with the government of the United States?

A Basically I think most lobbyists that go down there go down to, you know, just be around in a social setting with members of Congress or staff or in this case, I guess the Republican National Committee or Republican officials, you know, in settings like receptions and parties and dinners and, you know, it's much more of a social event.

Q Ms. Linehan, you're on the executive committee of the Tobacco Institute; how long have you been on that?

A For one meeting.

Q How many?

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

A One meeting.

Q One meeting?

A Uh-huh.

Q Who else is on the executive committee from Philip Morris?

A Bill Campbell, who is president of PM USA.

Q Where is his office located?

A New York.

Q Do you have anybody else from Washington besides yourself?

A Oh, I have -- do I have other people?

Q No, who are on the executive committee?

A No.

Q Just yourself and Mr. Campbell?

A Yeah.

Q So you've been to one meeting. Did you like it?

A It was a meeting.

Q Where was the meeting?

A The meeting was in New York.

Q Did you have an executive session in that meeting?

A I don't think so.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q Do you know -- one of the reasons that I am taking your deposition, other than, of course, I wanted to meet you, was to find out whether or not that people take minutes at the executive sessions of the executive committee, and I take it that you don't know?

A No, I don't know. I'll pay attention at my second meeting, sorry.

Q I don't think there's much chance you're ever going to testify in this case. You want to know why?

A Why?

Q Because you're too nice a person. The guy before you, he'll be down but you don't get to come, I don't think. We're all Democrats there, you'd like us. We're swell guys.

With respect to Philip Morris and your lobbying activities, you may or may not know this -- I assume that you have worked in conjunction with the Tobacco Institute even though you haven't been on the executive committee for the --

A Right.

Q -- past five years or so?

A Right.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Digitized by the Internet Archive http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q But you know Mr. Lewis, you know Mr. Chilcote, and have you attended Tobacco Institute functions over the years?

A Yeah.

Q Have you gone to their annual legislative meetings?

A Yes.

Q Did you have a good time?

A Yes.

Q Did you really? Do you play golf?

A Tennis, very badly.

Q Did you go to the legislative meetings?

A Yes.

Q Do the legislators actually speak?

A Yes.

Q Is there a meeting -- is there any -- are there any recording devices or court reporters or things like that to take down --

A No.

Q -- what these people say?

A No.

Q Do you have anything like that that you do

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

independent of the Tobacco Institute?

A You mean a trip like that or honoraria?

Q Both.

A We do honoraria.

Q Honoraria is basically a thing of the past now.

A Well, you know, it's a thing of the past, you know; they can't take the money and put it in their wallet, they have to give it to charity so if they want to come and speak, you know, in St. Louis to a Rotary Club or something like that, they can take up to $2,000 in honoraria, but they have to designate it to charity.

Q How about expenses?

A And they are allowed necessary expenses and travel. And then there are specific requirements in terms of how many days you can spend at any one location. I think it's up to three nights, something like that.

Q How much money prior to 1991 would Philip Morris spend on this type of activity annually?

A I mean, I'd have to guess.

Q If you have a judgment, I mean, would it be millions, hundreds of thousands --

A No.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support by http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q -- thousands, I just don't know. You guys are big guys.

A Thousands.

Q You're bigger than Korea and I almost got killed there.

(Discussion off the record.)

THE WITNESS: I don't know how much, it's not hundreds of thousands of dollars.

BY MR. COOK:

Q Do you have an annual legislative function where groups of these people would be --

A PM?

Q PM.

A No.

Q What types of things, Ms. Linehan, would you -- would legislators be invited to go on? I think that it speaks very highly of you but I don't think I'd like to be in a large room with some of them. Like Tony Cuehlo, did you ever entertain Tony Cuehlo? Seems to me like he got his name on the list pretty good. Do you like Tony?

A I know Tony.

Q I know Tony, too. Nice guy.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

A Very nice guy, very bright. I'm sure we entertained him but I don't remember specifically where, when.

Q I understand. I don't know how candid you want to be but this is the way this works, isn't it, that lobbying groups entertain Congress, the people who pass laws? Competing lobbying groups do. For example, right now you're probably on the side of the Manufacturers' Association even though you are a lawyer and virtuous lawyers are fighting them. That's the way this works, is that in almost all lobbying that there's a counter-lobby; is that true?

A It's a good check and balance, don't you think?

Q No, I don't think.

A No?

Q I think it would be a better check and balance if we elected people who weren't for sale, and I don't like that. I'm sitting here thinking and I'm looking at the Tobacco Institute -- nothing to do with the lawsuit, but I assume that there are hundreds of Tobacco Institutes; that there's the institute for trucks, and there's the institute for automobile manufacturers and

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

there's the institute for whiskey and trial lawyers association and the medical association and all of this, and I wonder how much money these sons of bitches get. You know, I assume they vote their conscience, that they take from both sides and then vote what's right. But I don't think that's particularly the way government should work, although maybe there's no other way. I don't know.

So, when you do that -- and that was just -- you don't deserve that and so strike it. Your lawyer will strike it from the record.

Do you compete with RJR on the lobbying level?

A No.

Q Did you assist each other?

A Sort of.

Q Do you know Mr. Bee Oglesby?

A I know Bee.

Q Is Bee your counterpart?

A Technically in a corporation, Bee is higher up than I am. Bee has the world, I only have Washington. He's international and state and local and Washington. He's more like Fuller.

Q Did you and he coordinate your lobbying

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

activities?

A No.

Q Do you run into each other in lobbying activities --

A Sure.

Q -- or people on his staff?

A Sure.

Q Do they to your knowledge -- I think it's very important -- although I don't know on the lobbying level, it's very important to RJR and Philip Morris to know what the other is doing on the sales level where they're directly competing with each other. Is it important that you know that on the lobbying level too?

A It's helpful to know what everybody's doing, but it's not always the case.

Q The people from RJR guard their secrets with respect to their business very jealously, what their market shares are, how much they spend on advertising and promotion, and I assume that Philip Morris does the same thing.

Did you and the RJR people here -- is there a tension between you when you're lobbying because you're

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Stanford Library http://www.industrydocuments.ucsf.edu/docs/fmhl0001

competing corporations, or are you on a level where you're almost always allies?

A We're, I'd say, the latter. We're on a level where we're almost always allies.

Q Do you smoke?

A No.

Q Have you ever?

A Yes.

Q Where did you go to high school?

A Lansdowne-Aldan outside of Philadelphia.

Q Did they have a smoking area for students in high school there?

A I'm so old I can't remember. I really don't remember.

Q Did you smoke while you were in high school?

A No.

Q When did you start?

A In college.

Q What do you think about the ban of cigarette smoking on airplanes; were you in favor of it or were you against it?

A Well, I lobbied against it.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf Source: http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q When you'd ride on airplanes before that, would you always sit in the non-smoking section?

A It wouldn't really matter to me.

Q Did Philip Morris -- when Northwest banned smoking, did they take any punitive action against Northwest airlines, or do you know? RJR did.

A I don't know.

MR. STUHAN: I object to the form of the question.

BY MR. COOK:

Q Do you object to the ban against cigarette smoking on airlines yourself personally?

A Do I personally object to it?

Q Yeah.

A Well, you know, I lobbied in order to maintain basically the status quo. We felt that if they ran the air packs properly, if you could have separate sections, that the nuisance factor, what have you, wouldn't be a problem. But obviously the Congress felt otherwise.

Q Do you think cigarette smoking may be dangerous to people's health?

A Dangerous to -- I think cigarettes definitely are

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/fmhl0001

a risk factor in terms of health.

Q You shook your head yes, so --

MR. HEPLER: Her answer stands.

BY MR. COOK:

Q I'm not sure what your answer is. Do you think cigarettes are dangerous to people who smoke them or do you think they're not dangerous, or don't you know?

A Well, I mean, I said I think they're a risk factor.

Q I understand. I didn't ask you if they were a risk factor. I asked you if you thought they were dangerous. I don't know what you mean.

A Well, then I don't know.

Q Okay. If you thought they were dangerous to people who smoked them, would you still work for Philip Morris?

A I mean -- I don't really know.

Q What about vending machines, do you have any opinion about whether or not vending -- the use of vending machines for cigarettes should be banned?

A Well, I think vending machines -- if you're taking about a ban, I don't think they should be banned.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q Why not?

A Because I think that if you're taking about youth access, there are several ways you can really restrict youth access.

Q Do you agree that it would be a good thing for youths to have limited access to cigarettes? Do you think it would be a good thing for young people to have limited access to cigarettes?

A No.

Q You think it's appropriate that they have as much access as possible?

A I don't think they should have any access.

Q The people who propose bans on vending machines, do you know why they think vending machines should be banned, ma'am?

A Yes, they're concerned about youth having too much access to vending machines.

Q A machine can't tell -- at least right now -- how old a person is.

A That's right.

Q Are you aware of the fact that in the past that the Tobacco Institute has opposed any restrictions on the

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Stanford Libraries http://www.industrydocuments.ucsf.edu/docs/fmhl0001

placement of vending machines?

A TI?

Q TI.

A I don't really know that.

Q Could you just assume it was true for a minute?

A Okay.

Q Do you think that's appropriate?

MR. STUHAN: I object to the question as calling for a legal conclusion of the witness.

MR. HEPLER: You can answer the question.

THE WITNESS: What was the question?

BY MR. COOK:

Q The question is, do you think that to take a position opposing any restriction on the placement of vending machines or the use of vending machines to distribute cigarettes is appropriate?

MR. HEPLER: You mean now?

MR. COOK: At any time, I don't care when.

MR. STUHAN: Same objection.

MR. HEPLER: Go ahead.

THE WITNESS: I don't really know. I know that certainly I personally would not oppose restrictions on

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/fmhl0001

vending machines. I don't think Philip Morris would oppose restrictions on vending machines in terms of youth access. I don't know what TI has done.

BY MR. COOK:

Q It seems to me like that if you restrict vending machines, it may prevent some youth access; do you agree with that?

A Yes.

Q I understand that vending machines is not a major portion of the market, of the sales market for cigarettes. It's something less than 20 percent are sold through vending machines.

A Because they're expensive.

Q Do you know if it used to be a higher percentage sold through vending machines?

A I don't know.

Q What is an excise tax?

A It's a sales tax, basically, placed on -- either federal or state placed on a product, placed on beer, placed on cigarettes.

Q Well, I certainly don't think they should be placed on beer.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

A Neither do we.

Q Maybe we can make half a deal.

A Right.

Q You are aware of the fact that there are people who propose excise taxes to eliminate things they think to be sins?

A Sins?

Q Sins, sin tax.

A Yes.

Q Some people propose to raise the excise taxes on cigarettes in order to make them more difficult for people to buy them?

A Some people think that excise taxes have, yes, have an impact on consumption.

Q There isn't really much question about that. If you raise the price high enough, you can price cigarettes out of the market, couldn't you?

A That's probably true.

Q You might also induce bootlegging, too; that would be a problem wouldn't it? Cut the government out of their just due. Of course, we would have more annual legislative meetings --

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

MR. HEPLER: Or your taxes could go up.

MR. COOK: I'm willing to raise my taxes, I have no problem with that. They lowered them enough for me for the past 12 years so that I have saved some money.

THE WITNESS: You're a Democrat.

MR. HEPLER: You've got yours socked away.

MR. COOK: I'm a member of the Democratic National Committee and have been for a considerable period of time.

MR. HEPLER: He took advantage of that position and built a small vast fortune so he no longer has to worry.

MR. COOK: That's true.

BY MR. COOK:

Q The Tobacco Institute and, I assume, your lobby group opposes the raising of any excise taxes?

A Yes.

Q The excise taxes are not paid by your company, are they?

A No, they're paid by the consumer.

Q So it wouldn't cost you anything if there were excise taxes raised, but you're against them because it

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

will retard consumption; is that true?

A I assume so.

Q Do you have any understanding, Ms. Linehan -- is it Miss or Mrs., or would you prefer we just call you Ms.?

A Ms.

Q May I ask you if you're married?

A Yes.

MR. HEPLER: You may ask. Which is it?

MR. COOK: She said yes.

BY MR. COOK:

Q What does your husband do?

A He has a public relations firm.

Q What's the name of it?

A Madison Group.

Q Does he have any governmental background?

A Yes.

Q Everyone in this damn town does, don't they. What would be his governmental background?

A He worked for the Federal Energy Administration.

Q He wasn't Jack?

A No.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library www.industrydocuments.ucsf.edu/docs/fmhl0001

Q But you liked Jack?

A He's great. He was great.

Q Do you have children?

(Discussion off the record.)

THE WITNESS: Do I have any children?

BY MR. COOK:

Q Yes.

A No.

Q Does Ed smoke?

A Occasionally.

Q Philip Morris brand, I assume?

A Yes, he gets them free; I mean he bums them.

MR. HEPLER: As did Bruce for years from his cohort, Tom.

BY MR. COOK:

Q Did you ever know the Marlboro Man? Did you ever met him?

A No.

Q He's dead, you know. What other ways, short of educating children against smoking, are you aware of that the voluntary heath associations and governmental health associations have suggested to reduce or eliminate smoking

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

by teens?

A What, other than education?

Q Well, education I understand is what the Tobacco Institute is trying to do, and I know that some of the voluntary health associations have recommended limiting children's physical access to cigarettes. One way was vending machines; Banzhaft, I believe or whatever his name is, suggested only selling them in pharmacies, and other people have suggested they only be sold from behind counters so that age can be checked. Do you know of any other -- and of course the excise taxes or raising the taxes on cigarettes -- do you know of any other ways that people have suggested to --

A I mean, that covers the waterfront, well --

Q What do think about kids smoking?

A I don't think kids should smoke.

Q I think everybody has thought that at least since I was a kid, but kids still smoke, don't they?

A Yes.

Q Also there have been proposals to eliminate advertising, that some people suggest that advertising encourages children to smoke.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

A Yes.

Q Are you familiar -- I was going to ask Mr. Lewis but his deposition was terminated very rudely -- with the voluntary cigarette advertising code?

A Am I familiar with it?

Q Yes.

A Yeah, I have to admit I haven't really read it lately, but I'm vaguely familiar with it.

Q What do you understand that the voluntary cigarette advertising code does? And I understand that -- let me help you just a little bit with a few things. I believe they stopped using youthful models for advertising. People who were under 25 or looked like they were under 25, they wouldn't use those people to --

A Right.

Q -- model cigarettes. They don't advertise in media that is pointed towards children, like they wouldn't advertise on cartoons; they can't do it on television anyway. They don't use athletic or sports heroes to advertise cigarettes, and they don't use John Wayne or Ronald Reagan anymore. Why do you think they did that?

A When did they do that?

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q 1962. To discourage children from smoking?

A Okay.

Q But what I really --

A I'm trying to think. I just started, so I don't know.

Q I'm trying to think about why advertising with sports heroes would encourage children to smoke. I don't get it.

MR. HEPLER: Is that a question?

MR. COOK: Yeah, I'm trying to get it.

BY MR. COOK:

Q Does the cigarette industry think that advertising using sports heroes would attract children to smoke?

MR. HEPLER: I don't know that they do.

MR. COOK: They do.

MR. STUHAN: I'm going put forth an objection to the question to the extent that it asks this witness to make a statement on behalf of the entire industry. To the extent she can answer for herself and her company, my objection doesn't extend that far.

THE WITNESS: Look, I mean, I think they use

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Stanford Libraries http://www.industrydocuments.ucsf.edu/docs/fmhl0001

sports guys like they use in Miller, they used in Miller Beer commercials has -- you know, for adult smokers.

BY MR. COOK:

Q Well, what I'm trying to find out is the advertising code was enacted as a voluntary measure by the cigarette industry to stop advertising from attracting children to smoke. I'm trying to understand from you because you're an executive in one of the largest cigarette manufacturers why, for example, would Michael Jordan smoking attract children to smoke?

MR. HEPLER: I don't know that this is her area, but --

MR. COOK: I think it's anybody's area, and I know the answer and she does too.

BY MR. COOK:

Q Don't you know the answer? Children look up to him, he's a role model, don't they? You don't know that?

A No, I just don't know if there's a nexus necessarily between advertising and Michael Jordan, or what have you, and smoking.

Q Then what's the big deal in your mind with the voluntary cigarette advertising code requiring that its

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/fmhl0001

members not use sports heroes to advertise cigarettes? I'm trying -- I'm asking this backwards to you. What I'm trying to find out --

A I assume so that -- there's been so much criticism that they wanted to, you know, do something to basically say, okay, as a good faith effort we'll no longer do the following few things, i.e., use sports figures.

Q Well, at the risk of offending you, how old are you?

A That's offensive.

Q Let me ask you -- let me ask this in a different fashion. What year did you graduate from the University of Maryland?

A I'm 41.

Q You're not quite old enough -- are you old enough to remember when your competitor, Camel cigarettes, advertised that four out of five doctors preferred Camels; do you remember that?

A No. Please, I'm not that old.

Q Unfortunately I'm able to remember that. Are you old enough to remember the Winston jingle?

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library www.industrydocuments.ucsf.edu/docs/fmhl0001

A No.

Q If I hummed a few bars?

A Yeah.

Q It goes like this: "Winstons taste good."

A Yes, "like a cigarette should."

Q So you do remember, don't you? That went off the air in 1972. You would have been 21 years old and you still remember it. It was a good commercial, wasn't it? Do you remember the Marlboro Man?

A Sure.

Q What kind of car did he drive?

A Car?

Q On television?

A Car?

Q Yeah, he got into a Corvette.

A Oh.

Q Don't you remember?

A No.

Q You weren't into cars then?

A No.

Q When you lobby for tobacco, do you ever think about the health consequences of the product you're

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

lobbying?

A Do I ever think about the health consequences?

Q Do you ever go home and say, Jesus Christ, if what the Surgeon General says is true, this is really bad stuff?

MR. HEPLER: Show my objection. I don't know what her personal thinking would have to do with her job or role. If she can answer it, go ahead; you may answer. I object because I don't know what her personal thinking is -- how it could be relevant to this case, but she can answer the question.

THE WITNESS: Do I ever?

BY MR. COOK:

Q Yeah, do you worry about that?

A No.

Q What do you think about the figures that are reported by the Surgeon General that 360,000 deaths annually are caused by cigarette smoking? Are you familiar generally with that?

MR. STUHAN: I object to the question. If you're going to ask the witness agree with the Surgeon General's report, you ought to show her the Surgeon General's

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Stanford Library http://www.industrydocuments.ucsf.edu/docs/fmhl0001

report. Secondly, I haven't seen a foundation for the specific number you're citing here.

MR. HEPLER: You may answer.

THE WITNESS: Could you repeat the question?

BY MR. COOK:

Q Sure. The Surgeon General's report -- I don't know if you've read it in depth, but you've seen the silver copy, that 25 years copy of the Surgeon General's report?

A I probably have.

Q Are you aware of fact that the Surgeon General attributes more than 300,000 deaths annually to cigarette smoking; you are, are you not?

A Yes.

Q You are a nice person, I can see that. A lot of people are smoking. A lot of people drink; a lot of people get cirrhosis. A lot of people get in car wrecks; a lot of people die because of alcohol, too, don't they?

Do you know how many are reported annually from alcohol-related deaths? It's in the Surgeon General's report on cigarettes, would you like to know? 7,000 annually. I bet you thought it would have been more than

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

that.

MR. HEPLER: What she thinks is immaterial.

BY MR. COOK:

Q Would you have thought it would have been more than that?

A I have no idea. I never heard statistics.

Q A thousand people a day, the Surgeon General says, die from smoking cigarettes, yet you try and keep people consuming as many as possible?

MR. STUHAN: I object to the question.

MR. HEPLER: Is that a question or statement?

MR. COOK: It was --

MR. HEPLER: Sounds like a statement.

BY MR. COOK:

Q It doesn't make much sense to me why you would oppose excise taxes. Excise taxes will hold down consumption of cigarettes. Almost everybody knows smoking is not good for humans. You don't think smoking is good for people, do you?

A As I said there are risk factors associated with smoking.

Q Do you think smoking is good for people, does

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

anything good for them?

A Good like what?

Q Good like it helps them. Beer is good for you. Beer is good for you.

A How is beer good for you?

Q It improves your circulation. People who drink alcohol moderately have a much lower incidence of cardiac problems.

A I never heard any discussions about how cigarettes are -- there are medicinal purposes.

Q Beside that, beer is food. It is food.

A Hops.

Q People can exist on beer alone.

(Discussion off the record.)

BY MR. COOK:

Q Do you know what the annual contribution of Philip Morris is to the Tobacco Institute?

A I don't know, but I know it's by market share. I don't know.

Q Do you know what your market share is on the cigarettes?

A 43 percent.

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by: www.industrydocuments.ucsf.edu/docs/fmhl0001

Q Do you know what RJR's is?

A 28ish.

Q If you look at 1990, you'll see what they contributed in 1990.

A Who's this?

Q RJR.

MR. HEPLER: That's RJR figures for contribution to the --

MR. COOK: Tobacco Institute.

MR. HEPLER: -- Tobacco Institute, their annual dues to the Tobacco Institute.

BY MR. COOK:

Q If I multiply that by about 1-1/2, I'd be pretty close to what your figure was?

A I guess.

Q That would be within what you think?

MR. HEPLER: Rather than guessing, why don't you have an interrogatory.

MR. COOK: I don't think I even have an interrogatory out on it. I'll go make them bring it, but --

BY MR. COOK:

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

Q Half of 28 would be 14, and 14 and 28 being 42, it's 1-1/2.

Can you think of any reason why the tobacco industry should oppose restrictions on the placement of vending machines?

MR. HEPLER: You mean in all facets without any limitations? Go ahead, I think I understand your question.

BY MR. COOK:

Q Until 1988 that was TI's position and so I'm just trying to think is there some underlying constitutional value here that I've missed or --

A Look, I think that reasonable restrictions -- personally, I mean, I don't know what TI's position is -- personally, reasonable restrictions on vending machines to block kids from using them certainly should be supported. I don't know what TI's official position is.

Q Since you've only just joined them -- you've only just started TI.

Have you ever gone into filling stations when you were a youngster in Philadelphia and seen cigarette machines in filling stations?

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001

A Yeah, I guess so.

Q It always seemed to me like that was the most common place to see a cigarette machine was in a restaurant or a filling station. Is that the place that you'd see them commonly?

A I don't really remember.

Q Try to think about it, where you'd see cigarette machines.

A Now or back when I was a kid?

Q Both now and back when you were a kid.

A I mean, now --

MR. HEPLER: She probably hasn't been in a lot --

THE WITNESS: Bars, restaurants.

BY MR. COOK:

Q Filling stations?

A Okay, filling stations.

MR. HEPLER: Well, don't agree with him if you don't remember.

THE WITNESS: No, I'm saying now. Back then, I don't even know if it was on my radar screen as a kid.

BY MR. COOK:

Q What is the lobbying group for the vending

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Digitized by the Internet Archive http://www.industrydocuments.ucsf.edu/docs/fmhl0001

machine people, what is their name? Do you know?

A I don't know their name. There is one but --

Q Would you work with other lobbying groups, do you have natural allies who help you? For example, the trial lawyers have labor helps them. We almost always lobby together.

A Do you? I didn't know that.

Q Didn't you know that we're Democrats, all of us. We are.

Do you have groups that -- in tobacco that other groups that are your natural allies?

A Yes, I'm sure.

Q For example, sugar. Sugar is one of your natural allies?

A I mean when, for example, the different farm programs are up and as their budgetary purse strings now are being attacked, a lot of dairy and sugar, and they all try to basically protect themselves.

Q Grain?

A I guess, you know.

Q I'm trying to think -- do you meet with them and coordinate activities and things like that?

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library www.industrydocuments.ucsf.edu/docs/fmhl0001

A No.

MR. COOK: Well, I wish I could think of a way to make you bring Craig Fuller to trial. Better tell him not to get on the executive committee of the Tobacco Institute.

(Discussion off the record.)

(Whereupon, at 4:45 p.m., the deposition was concluded.)

KATHLEEN M. LINEHAN

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Library
http://www.industrydocuments.ucsf.edu/docs/fmhl0001

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, LISA N. BENCHOFF, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Lisa N. Benchoff

Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 28, 1997

http://legacy.library.ucsf.edu/tid/exq07a00/pdf
Support provided by the UCSF Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/fmhl0001